



AG REQUEST LEGISLATION – 2009 SESSION

IMPROVING PUBLIC ACCESS TO RECORDS BY REDUCING ABUSE

BACKGROUND:

Washington voters enacted the Public Records Act (“PRA” or “Act”) by initiative in 1972 to provide the people with broad rights of access to public records. The Act declares that it must be “liberally construed” to promote the public policy of open government:

“The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy.” (RCW 42.56.030.)

THE PROBLEMS:

Over the past several years, incarcerated felons have been flooding the system with requests they acknowledge are intended to harass and have nothing to do with the conduct of government. In fact, they inhibit good, responsive government because time spent to address inmate requests is time, and money, spent not responding to other matters – like addressing requests from outside the inmate population.

- In 2007, the Department of Corrections (DOC) staff spent 12,494 hours responding to offender records requests -- costing taxpayers more than \$250,000 and six full-time employees.
- DOC made roughly 350,000 pages of records available to offenders. Offenders who requested the records paid for fewer than 30 percent of the pages made available.
- During first quarter 2008, DOC received 2,198 offender requests – almost three times as many as first quarter 2007. DOC staff spent 3,476 staff hours responding to these requests, at a cost to taxpayers of more than \$70,000. Requests from inmates now comprise 78 percent of the requests received by DOC.
- Due to the volume and scope of offender records requests, DOC has had to prioritize the requests, meaning the number of active requests, and the costs associated with responding to the active requests, will continue to grow into the future.

Examples:

- During a five-month period in 2005, an inmate incarcerated for the bombing death of a judge made 788 public records requests of DOC in an attempt to force DOC to transfer him to another prison. He repeatedly threatened additional requests and bragged about his ability to use the Public Records Act to accomplish his goal.
- Another inmate has made 664 public records requests of DOC, requiring more than 4,200 hours of staff time and costing taxpayers more than \$85,000. This inmate’s pattern is to harass and intimidate staff involved in disciplinary action against him by requesting their personnel files and staff photographs.

LEGISLATION:

Balancing the need for legitimate access to public records against the ease with which inmates are abusing the Public Records Act, the Attorney General’s Office requests legislation to allow respondents to request an injunction if a records request is proven to be intended to harass or cause harm to a person or vital government function. The legislation would also give courts authority to enjoin all or any part of the request and to retain jurisdiction for future requests by the same requestor.